

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6331 of 1996

with

SPECIAL CIVIL APPLICATION No 6407 of 1996

with

Special Civil Application No.6527 of 1996

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE G.D.KAMAT and
MR.JUSTICE C.K.THAKKER

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

KAUSHIK MAHENDRABHAI ACHARYA

Versus

VANITA VISHRAM

Appearance:

1. Special Civil Application No. 6331 of 1996
MR DD VYAS, WITH MS HANSA B PUNANI for Petitioners
Ms. KETTY A MEHTA, for Respondents Nos. 1 and 2.
Respondent No.3 served.
MR SB VAKIL for Respondent No. 4
MR AJ PATEL WITH MR VIPUL D JAGIRDAR for Respondent No. 5
2. Special Civil Application No. 6407 of 1996
MR KS JHAVERI for Petitioners
Respondent No.1 served.
Ms. KETTY A MEHTA, for respondents Nos. 2 and 3.
MR SB VAKIL for Respondent No. 4

MR AJ PATEL for Respondent No. 5
Respondents Nos. 6 and 7 served.

3. Special Civil Application No. 6527 of 1996.

MR SB VAKIL WITH AS VAKIL for Petitioner
MR KS JHAVERI for Respondent No. 1
Ms.KETTY A MEHTA for respondent No.2 and 4.
Mr.AJ PATEL for respondent No.3.
Respondent No.5 served.

CORAM : THE CHIEF JUSTICE G.D.KAMAT and
MR.JUSTICE C.K.THAKKER
Date of decision: 27/09/96

C.A.V. JUDGEMENT (Per G.D. Kamat, C.J.)

1. Rule in each of the petitions. By consent, to be heard forthwith.

2. These three petitions can be conveniently disposed of finally, as the same relate to the same subject matter and otherwise seek relief for and against permission to hold Handloom Fair at Surat in the property belonging to Vanita Vishram, a Public Trust.

3. "Vanita Vishram" is a Public Trust, registered under the Bombay Public Trusts Act, which is asserted to be a "very old and prestigious institution", mainly catering to the upliftment of women from Gujarat, looking after their educational and vocational needs, etc., and for that matter, they run several educational institutions. At one time, it was registered as a Company under the Companies Act, but, subsequently, it came to be registered as a Trust, under the provisions of the Bombay Public Trusts Act, 1950. Shri Vaikunthrai B. Shastri is the President of the Trust and Shri Janak Hareish Gajjar is the Secretary thereof. It appears that there is some litigation between the Trustees and for that purpose, even a civil suit is pending in a Civil Court at Surat.

4. "Vanita Vishram" owns, among other properties, an open plot of land, bearing Survey Nos. 917, 926, 994 and 1024, admeasuring 98072 sq. metres, being now Final Plot No.601, in Town Planning Scheme No.5, in Athwa Lines, at Surat.

5. For the last several years, this open plot was allowed for holding a Handloom Fair between the months of August and October. It appears that the Fair coincides

with Janmastami and goes beyond Navratri. One P.T. Dilip had been obtaining permission from the Trustees for holding the Handloom Fair continuously from the year 1984 on terms and conditions, which are not clear and intended to be suppressed.

6. One of the respondents in this petition, by name Vinodkumar Sabharwal, owns a Circus, known as "Komal Circus". He also holds Fairs and it appears that, this year, he thought that he should be a competitor to Dilip for holding Handloom Fair at Surat in the land belonging to the Trust between August and October. Accordingly, it appears that, by his application dated 31st May, 1996, he sought permission to use the land in question for the period from 21st of August, 1996 to 26th of October, 1996 (65 days), offering a sum of Rs.31,00,000/-. He also offered to pay municipal taxes in advance and further offered for providing a borewell and construction of bathrooms and latrines, on permanent basis. However, the offer of Vinodkumar Sabharwal was not at all considered.

7. It is the case of the Trust and P.T. Dilip that the said Dilip had obtained permission to hold Fair from 25th of August, 1996 to 24th of October, 1996 and obtained a sort of a certificate dated 24th of April, 1996, signed by Administrative Officer of the Trust. From this Certificate, it is clear that a tentative decision was taken to grant permission in favour of Dilip provided he fulfilled certain conditions beforehand and subject to the final decision in the matter. Among others, the conditions imposed by virtue of that certificate of 24th of April, 1996 was that P.T. Dilip will obtain all necessary permissions from the Commissioner of Police, Commissioner, Surat Municipal Corporation, Department of Health and whatever other licences needed from Central and State Governments. Secondly, he was required to pay all past liabilities of municipal dues, which were held out to be the liabilities of the Trust. It is common ground that the Municipal Corporation, Surat had demanded a sum of not less than about Rs.14,00,000/- from the Trust towards the past liability of tax dues in so far as the holding of the Fairs in the past is concerned. By way of licence fee, the stipulation was that P.T. Dilip shall pay not less than a sum of Rs.1,80,000/- before entering the site.

8. It is common ground that based upon this certificate, Dilip obtained various permissions and no objection certificate from various Authorities between the period June, 1996 and July, 1996. Sometime on 9th of July, 1996, the Honorary Secretary of Vanita Vishram

issued a communication to Dilip, making reference to the Certificate dated 24th of April, 1996 and holding out that permission is being granted for use of the ground for the period from 25th of August, 1996 to 24th October, 1996 for organizing the Handloom Fair / Exhibition, on terms and conditions laid down in his letter, as well as the Agreement signed by him, but, however, this communication makes reference to the letter of Dilip dated 10th of October, 1995. This would suggest as if Dilip had applied well in advance, in October, 1995 for holding the Fair, commencing from August, 1996. We will come to greater details on this aspect a little later.

9. Once Dilip started erection of stalls and incidental activities on the open ground for eventually holding the Fair, several proceedings were initiated. One Ramchandra Chauhan instituted proceedings for appropriate directions under Section 41-A of the Bombay Public Trusts Act against the Trustees and also against respondent Dilip not to give the land for use by Dilip till all offers are considered, and the ground be allotted in favour of a person, who would make the highest bid. These proceedings under Section 41-A came before the Joint Charity Commissioner, Vadodara, who granted interim relief on 25th July, 1996, calling upon the Trustees to produce all the offers, which have been received by the Trust, for permitting the use of the land and to appear before him on 5th of August, 1996 and at the same time, directing that no lease be created nor permission be granted in favour of any one, nor the ground be handed over in any manner to whomsoever.

10. Having thus faced with this situation, it is common ground that Dilip filed a suit, being Regular Civil Suit No. 570 of 1996, in the Court of the Civil Judge (Senior Division), at Surat against respondent Vinodkumar Sabharwal, Vanita Vishram Trust and also Joint Charity Commissioner, Vadodara, seeking an injunction against them, restraining them from in any manner interfering with Dilip in organizing the Handloom Handicraft Fair and Exhibition-Entertainment Programme in the Athwa Lines Area. The learned Civil Judge granted injunction upto 6th of August, 1996. It appears that, subsequently, the ad interim injunction granted was also made absolute.

11. Kalpesh J. Shah, petitioner in Special Civil Application No.6407 of 1996, also instituted proceedings before the Joint Charity Commissioner and obtained an ex parte order on 30th July, 1996, under which a direction for maintaining status quo by the parties was made.

12. There is a scramble for ground for holding Handloom Fair / Exhibition between August and October between Dilip on the one hand and Vinodkumar Sabharwal on the other hand. In Special Civil Application No.6331 of 1996, Kaushik Acharya and Kamlesh Vakharia complain that the orders of the Charity Commissioner are thrown to the winds and the Trustees of the Trust act contrary to the interest of the Trust; that it is clearly incumbent upon the Trustees to get higher income for the use of the properties of the Trust, but, however, as a result of the mismanagement and for making unlawful gain to themselves, they have entered into dubious transactions with Dilip. The offer of Sabharwal is also highlighted and in that view of the matter, a writ of Mandamus is sought or an appropriate writ, direction or order, directing the Joint Charity Commissioner to take action forthwith and stop construction as also use of the ground. At the same time, injunction is sought against the Chairman and Secretary of the Trust not to permit the use of the aforesaid ground and not to grant permission to Dilip, with a further direction that the Trustees publish an advertisement, calling for bids for use of the ground and accept the highest bid so offered.

13. In Special Civil Application 6407 of 1996, Kalpeshkumar Shah, on almost identical facts, complains that his application under Section 41-A of the Bombay Public Trusts Act is pending and the Trustees do not respond to the orders made by the Joint Charity Commissioner. They are, therefore, required to be dealt with in accordance with law for flouting the orders and legal directions and, therefore, seeks a writ of mandamus or appropriate writ, allowing them not to grant permission for holding Fair and / or for cancellation of the permission already granted, with a further restraint on Dilip not to hold the Fair.

14. When these petitions came up for hearing, Dilip thought that he might be left out of the race and, therefore, he instituted Special Civil Application 6527 of 1996, saying that he has been already permitted by the Trust, as a result whereof, he has brought about stalls and made other arrangements, thereby expending Rs.37,00,000/-. He also says that he has obtained all necessary permissions from the authorities concerned. In the petition, he seeks quashing and setting aside of the order dated 20th of August, 1996, made by the Joint Charity Commissioner, Vadodara in Nyay Miscellaneous Application No.4137 of 1996 and for stay of operation, implementation and execution of the impugned order. By

the order of 20th August, 1996, the Joint Charity Commissioner directed status quo. Obviously, this petition is nothing but a counterblast to the other petitions.

15. From the pleadings of the parties, it now transpires that at the beginning, when permission was granted to Dilip under the Certificate, dated 24th of April, 1996, Dilip was expected to pay, by way of fees, a sum of not less than Rs.1,80,000/-, besides fulfilling the condition of payment of the Municipal taxes and arrears, of which, in fact, he was the author. There was a clear offer of Rs.31,00,000/- made by Vinodkumar Sabharwal, in addition to the offer of constructing a borewell and several bathrooms and latrines of permanent nature for the benefit of the Trust. We will have, therefore, seen that in comparison with the offer made by Sabharwal, the offer of Dilip was a pittance. However, with a view to get over the negligible offer made to the Trust, in the affidavit subsequently filed, that too, upon the insistence of the Court, it becomes clear that Dilip has offered Rs.16,50,000/-, and out of which, by the time these petitions were heard, a sum of Rs.13,00,000/- had been paid, thereby leaving a balance of Rs.3,50,000/-. It is, therefore, clear that the maximum rental that the Trust receives from Dilip is only a sum of Rs.16,50,000/-.

16. As against this, the offer made by Sabharwal as early as 31st May, 1996 was to the tune of Rs.31,00,000/-, plus construction of a borewell, bathrooms and latrines. When these petitions came up for hearing, in his affidavit he made a very startling disclosure, improving upon his old offers. In that, Sabharwal says that in addition to the offer earlier made of Rs.31,00,000/-, construction of borewell, latrines and bathrooms and handing over one Ambulance to the Municipal Corporation, Surat and one Ambulance for the use of the Office of the Commissioner of Police, Surat, he also says that he is prepared to reimburse the expenditure of Rs.37,00,000/- incurred by Dilip and will run the show. That from these offers, it becomes amply clear that the so-called Handloom Fair / Exhibition, which is annually held at the open ground of the Trust has a great potential for large amount of rent / fees. Tersely put, if one considers the offers of Sabharwal, it may nearly come to Rs.1,00,00,000/- (Rupees one crore only). This being the potential, these petitions and several aspects connected with it give us very anxious moments, as to whether the affairs of the Trust are managed in a manner expected / required by the trust reposed in Trustees and

whether such affairs and / or mismanagement should be allowed to continue.

17. However, before we do that, on behalf of Dilip, on one side, and Trust, several blocks / hurdles are sought to be created. On their behalf, the attack in the petitions, led by Shri S.B. Vakil, learned counsel for Dilip, and supplemented by Ms. K.A. Mehta, learned counsel for Vanita Vishram, is that Kaushik Acharya and Kamlesh Vakharia are none other than surrogates of Sabharwal. Same is the allegation made against Kalpeshkumar, petitioner in Special Civil Application No.6407 of 1996. According to them, these persons are set up by Sabharwal to camouflage the petitions as "public interest litigations". That, in reality, no public interest is involved and what is agitated is private interest of Sabharwal and the whole attempt seems to be, it was urged, to espouse the cause of Sabharwal. Sabharwal, it is stated, is represented by one Ramchandra Chauhan, who is the General Manager of "Komal Circus", which is owned by Sabharwal. If any proof is required, ask counsels, in all these proceedings, Sabharwal figures, who had otherwise no place for impleadment in the proceedings. There is total absence of public spirit and the entire litigation is based upon business rivalry and frustration. It is then contended that no writ of mandamus can lie against a Public Trust because they are not performing any public duty nor performing any statutory duty. A Trust can jolly well arrange their private affairs and merely because the affairs are liable to be regulated, that does not mean that such duties can be equated to public duties or someone can compel performance of such duties.

18. A large number of authorities have been cited to suggest as to why Special Civil Applications Nos. 6331 of 1996 and 6407 of 1996 are liable to be dismissed and no relief be given. For that matter, it was also pointed out that Section 36 of the Bombay Public Trusts Act is attracted only when the lease is created by the Trust for a period of over three years. In any case, it is pointed out that in the present case, mere permission has been granted to Dilip to hold the Handloom Fair, which does not amount to a lease. In any case, it is urged that Dilip has obtained all licences and permissions from several authorities and having already expended over Rs.37,00,000/-, it is not equitable for this Court to dislodge him from the exhibition grounds, merely because some person had made a better offer. In any case, it is contended that action of the Trustees is bona fide because Dilip has been holding the Fair since the year

1986.

19. In substance, broadly, the objections are two-fold, one relating to locus standi of the petitioners, and second relating to issuance of writ of mandamus against Trust and / or Trustees. The authorities cited across the Bar by Shri S.B. Vakil, learned counsel for Dilip, are as under :-

In the decision of Krishna Kant Jaiswal v. Vice Chancellor, Banaras Hindu University, Varanasi and others, AIR 1984 Allahabad 350, it was observed that when the contest is between two individuals for appointment to a certain post, such a dispute does not assume the character of a determinate class or group of persons, which is interested in continuing the litigation in public interest and when so-called public interest litigation is tainted by some oblique motive and not inspired by a bona fide and genuine object of vindicating a public cause, they ought not to be entertained and Public Interest Litigations shall not be allowed to be abused and such petitions are liable to be strictly examined so that they are not actuated by extraneous considerations.

In the decision of V.P. Mohammed Kutty v. Thottoli Kunhikoya Haji and others, AIR 1985 Kerala 33, a learned single Judge held that a competitor in business is not a person "aggrieved" and to have locus standi, Court must be careful to see that the member of the public, who approaches the Court, is acting bona fide and not for personal gain or for profit motive or political considerations or other oblique consideration.

With a view to invite the attention of the Court that various proceedings or litigations are filed one after the other and the same needs to be deprecated, reliance has been placed in the decision of Dahyabhai Ranabhai Vaghela v. Bloom Dekor Ltd. and others, reported in 1995(1) G.L.H. 865. It is true that a learned single Judge of this Court held that successive suits, for similar relief with similar set of pleadings against same defendant-Company, were instituted in various courts one after the other and, therefore, it was held that such a device adopted was a clear abuse of the process of the Court and the practice adopted by the plaintiff was condemned.

In the decision of Mahendra B. Shah v. State of Gujarat & Anr., reported in 1992 (2) G.L.H. 93, a learned single Judge of this Court, on the question of

locus standi to be decided, held that it must be with reference to the merits of the matter. While so deciding, it was held that it is necessary to find out whether a petitioner is found justified in approaching the Court, then, he cannot be denied locus standi when he is acting bona fide.

Reliance was placed on certain passages and more particularly, paragraph 8 in the famous decision of Ramana Dayaram Shetty v. The International Airport Authority of India and others, reported in AIR 1979 SC 1628.

Reliance was placed in the decision of State of Orissa and others v. Harinarayan Jaiswal and others, reported in AIR 1972 SC 1816 that it is open for the authority to reject the highest bid and sale of shops by private negotiations was not invalid.

20. The following decisions were cited to contend that no writ of mandamus can lie against a Trust and the demand for justice is required. Equally, it was pointed out that a petition against a Trust, if not properly framed, the same is liable to be rejected.

The first in order is the decision in State of Himachal Pradesh v. A Parent of a Student of Medical College, Shimla and others, reported in AIR 1985 SC 910. The second in line is the decision reported in Board of Trustees, Ayurvedic and Unani Tibbia College, Delhi v. State of Delhi and another, reported in AIR 1962 SC 458 that Societies registered under the Societies Registration Act are not 'Corporations' nor 'Quasi-Corporations'.

To suggest that the respondent is not performing public duty nor performing any statutory duty and, therefore, no writ of mandamus lies, reliance has been placed in the decision of Shri Anadi Mukta Sadguru Shree Muktajee Vandasjiswami Suvarna Jayanti Mahotsav Smarak Trust and others v. V.R. Rudani and others, reported in AIR 1989 SC 1607. It was indeed held in this authority that if the rights are purely of a private character and if the management of a college is purely a private body, with no public duty to perform, mandamus would not lie, these being two exceptions to mandamus.

The Supreme Court itself has laid down that the ratio of a case is to be applied to the facts of a given case and Supreme Court judgments are not 'statutes'. The concept of locus standi has been liberalized, though

courts are under a caution that the judicial apparatus is not unnecessarily resorted to. It is equally true that the rule of locus standi is based on sound policy so that professional litigant or busybody is not allowed to litigate under Public Interest Litigation. Learned Professor S.A. de Smith observed :-

"... All developed legal systems have had to face the problem of adjusting conflicts between two aspects of public interest - the desirability of encouraging individual citizens to participate actively in the enforcement of the law and the undesirability of encouraging the professional litigant and the meddlesome interloper to invoke the jurisdiction of the courts in matters that do not concern them...."

It is interesting to note what the Supreme Court observed in the decision of Rohtas Industries Ltd. and another v. Rohtas Industries Staff Union and others, reported in AIR 1976 SC 425 :-

"... The expansive and extraordinary power of the High Courts under Article 226 is as wide as the amplitude of the language used indicates and so can affect any person-even a private individual - and be available for any (other) purpose, even one for which another remedy may exist. The amendment to Art. 226 in 1963 inserting Art. 226(1-A) reiterates the targets of the writ power as inclusive of any person by the expressive reference to 'the residence of such person.' But it is one thing to affirm the jurisdiction, another to authorize its free exercise like a bull in a china shop. This Court has spelt out wise and clear restraints on the use of this extraordinary remedy and High Courts will not go beyond those wholesome inhibitions except where the monstrosity of the situation or other exceptional circumstances cry for timely judicial interdict or mandate. The mentor of law is justice and a potent drug should be judiciously administered...."

21. Upon consideration of all objections raised on behalf of Dilip and the Trustees and having considered the authorities, in our view, in the facts and circumstances of this case, it is not necessary to go into the question whether the petitioners in Special Civil Applications Nos. 6331 of 1996 and 6407 of 1996 are surrogates of Vinodkumar Sabharwal and that the said

petitions have been filed by way of proxy. We have recorded elsewhere in the judgment that these petitions have given us anxious moments and we will presently point out a few facts, which have emerged in these matters. Apart from Dilip and Vinodkumar Sabharwal, it appears that offer had also been made on behalf of Fun World and Resorts India Private Limited for occupation of the ground. We have referred to the Certificate dated 24th of April, 1996, wherein it was held out that Dilip was permitted the use of the ground upon payment of a lumpsum licence fee, which shall not be less than Rs.1,80,000/-. However, when these matters were brought to the fore, it was stated on behalf of the Trust that the consideration is Rs.16,50,000/-, out of which Rs.13,00,000/- were already paid by the time the petitions were heard. We have reasons to believe that the Trustees were forced to make Dilip pay at least a somewhat reasonable sum so that the Trustees are able to defend these petitions and to get out of indictment by the Court, if any. We are more than convinced that if these petitions had not been instituted, perhaps, the Trust would not have received anything more than Rs.1,80,000/-, as represented in the Certificate dated 24th April, 1996.

There is another aspect, which cannot be ignored. Mrs. Mehta read the affidavit filed by Janak H. Gajjar, the Secretary of the Advisory Committee, dated 6th of September, 1996. In paragraph 4 thereof, the averment is to this effect :-

"... Shri P.T. Dilip has this year offered a sum of Rs.16,50,000/- to the institution, out of which a sum of Rs.3,60,000/- is paid by him as maintenance charges by account payee cheques in the name of our institution Vanita Vishram. He has also offered a sum of Rs.18,90,000/- by way of donation to our trust...."

The offer of donation of Rs.18,90,000/- is merely an offer. It is difficult to conceive that the statement made by the Secretary in any manner binds Dilip. What is, however, pertinent to note is that in the affidavit filed on his behalf, Dilip does not say that in addition to Rs.16,50,000/-, he has made any offer of donation of Rs.18,90,000/-.

22. When we questioned Mrs. Mehta on this aspect of the matter, Mrs. Mehta was unable to give any satisfactory explanation. We have already highlighted that the offer made by Vinodkumar Sabharwal as early as May, 1996 was a sum of Rs.31,00,000/- by way of licence

fee, plus other amenities. It is also crystal-clear from the averments made by him in the affidavit filed on his behalf by Sureshchand Shukla, his power-of-attorney holder that he is not only prepared to stick to the original offer, but is also prepared to reimburse Rs.37,00,000/- to Dilip for having spent towards providing amenities on the exhibition grounds. This being the telltale in the matter, it is difficult for this Court to close the eyes and reject Special Civil Applications Nos.6331 of 1996 and 6407 of 1996 on the grounds urged by learned counsels on behalf of Dilip and the Trustees.

23. It is indeed true that proceedings have been filed before the Joint Charity Commissioner, invoking Section 41-A of the Bombay Public Trusts Act, 1950. We are also aware that some interim relief has been granted by him, but nevertheless, the orders made by the Joint Charity Commissioner have been rendered infructuous on specious pleas that the ground was already handed over to Dilip sometime on 18th of July, 1996. Needless to say that it was within the domain of the Trustees and Dilip to fabricate make-believe stories. It is not necessary to go into more details in these matters and we say no more.

24. We have also indicated that having regard to the offers made, there is a great potential for income out of the use of the ground for two months. Such income can be as much as touching a crore of rupees and in any case, not less than Rs.75,00,000/-. Is it not in the interest of the Trust that the Trustees should invite bids for use of the ground at least in future so that the maximum income is availed of for discharging their obligations under the Trust. Though it may be true that the Trust is not performing public duties, the fact remains that the object of the Trust is advancement of the traditional weaker section of the society. This being the case, it is difficult to hold otherwise and reject Special Civil Applications Nos. 6331 of 1996 and 6407 of 1996, and, in our view, an appropriate direction in that behalf is necessary.

25. An attempt was made on behalf of the Trust and Dilip that the earlier due of Surat Municipal Corporation of Rs.14,00,000/- has been reduced to Rs.1,68,542.52 in appeal and in view of the deposit of Rs.3,50,000/- made by Dilip, in the year 1995, the demand for tax and the arrears is liable to be adjusted towards the liability of tax for this year. This position was also contested on behalf of the petitioners in Special Civil Applications

Nos. 6331 of 1996 and 6407 of 1996 and Vinodkumar Sabharwal. We do not propose to go into this controversy.

26. We propose not to interfere with the permission to use the ground by Dilip at this stage as it may be inequitable to do so. The fact remains that he has erected large number of stalls and the Fair / Exhibition is in a midstream. Besides, he has obtained all necessary permission from the relevant authorities. But, we are, however, forced to direct the Trustees that, in future, they shall publish appropriate advertisement in leading newspapers, inviting offers for the use of the ground and act in accordance with law having regard to the paramount interest of the Trust and Trust alone. This direction, in our view, is necessary so that the Trustees do not give a wrong impression about themselves and that they are interested in enriching themselves. It should be borne in mind that Trustees must have the interest of the Trust paramount in their minds. Equally, a direction is also necessary to the Joint Charity Commissioner to proceed in the applications pending before him in accordance with law into the management and affairs of the Trust in the light of the allegations made and he may not close the proceedings on the specious plea that the Fair or Exhibition is over.

In view of the directions made above, Rule in Special Civil Applications Nos.6331 of 1996 and 6407 of 1996 is accordingly made absolute to the extent indicated and Rule is discharged in Special Civil Application No.6527 of 1996. Parties are directed to bear their own costs.

(apj)